92D CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
No. 92-486

CONGRESSIONAL DISTRICTING

SEPTEMBER 22, 1971.—Referred to the House Calendar and ordered to be printed

Mr. CELLAR, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 10645]

The Committee on the Judiciary to whom was referred the bill (H.R. 10645) to require the establishment, on the basis of the 19th and subsequent decennial censuses, of congressional districts composed of contiguous and compact territory for the election of Representatives, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 4, strike lines 10 through 12 and insert in lieu thereof the following:

"(A) on or before February 1 of the year (other than calendar year 1972) of the regular election of Members of the House of Representatives next following the year in which the decennial census is taken, or

"(B) in the case of calendar year 1972, on or before the 30th day after the convening of a general or special session of a State legislature at which the establishment of districts may be considered,

the court"

EXPLANATION OF AMENDMENT

The purpose of the amendment is to accommodate H.R. 10645 to the schedule of a substantial number of State legislatures that have adjourned or recessed their 1971 sessions without redrawing congressional district boundaries. Although several State legislatures will convene in January 1972, others are not scheduled to meet until after February 1, 1972. Accordingly, the amendment provides, in the case of calendar year 1972, a more flexible time rule based upon the convening date of the State legislature.

PURPOSE

The purpose of H.R. 10645 is to prescribe standards and enforcement procedures to govern the establishment of districts for the election of

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Representatives in Congress. The bill restores to Federal law the requirement that such districts be composed of contiguous territory in as compact a form as practicable, and provides that in each State the districts shall contain substantially equal numbers of persons. The bill confers exclusive jurisdiction on the Federal courts over suits to enforce these Federal guidelines, and provides that qualified voters have standing to bring such suits. H.R. 10645 also prescribes a time schedule for the guidance of State legislatures and the courts in determining when judicial relief is appropriate.

History

The issue of fair representation in congressional districting has occupied the attention of the Congress for a number of years. Over the past two decades Representative Emanuel Celler, Chairman of the House Committee on the Judiciary, has sponsored legislation to require substantial equality in congressional redistricting and to restrict gerrymandering by requiring compactness and contiguity. Judiciary subcommittees have held hearings on the establishment of congressional districts in 1951 (82d Cong. 1st sess., serial No. 21), in 1959 (86th Cong., 1st sess., serial No. 10), in 1961 (87th Cong., 1st sess., serial No. 9), and in 1964 (88th Cong., 2d sess., serial No. 8).

Legislation dealing with congressional districting has a long history. Prior to 1842, apportionment acts consisted merely of a listing of the number of Representatives to which each State was entitled. However, the 1842 Apportionment Act (5 Stat. 491) provided in the second section thereof:

> That in every case where a State is entitled to more than one Representative, the number to which each State shall be entitled, under this apportionment, shall be elected by districts composed of contiguous territory, equal in number to the number of Representatives to which said State may be entitled; no one district electing more than one Representative.

Many States did not follow this provision, and Congress continued to seat Members despite the fact that they were not elected from such districts. In practical effect, this provision became a dead letter. The provision was formally deleted by the Apportionment Act of 1850. In 1862, the Apportionment Act (12 Stat. 572) restored this provision, and the Apportionment Act of 1872 added the requirement that districts should contain "as nearly as practicable" equal numbers of inhabitants. In 1901, a further requirement was added that districts be composed of "compact territory" (31 Stat. 733). The 1911 Apportionment Act (37 Stat. 13), repeated all requirements for compactness, contiguity, and equality in number of inhabitants of the district. But the next apportionment law enacted in 1929 (46 Stat. 21) did not reenact these requirements. Subsequent efforts to reenact these standards have failed.

In 1964 the Supreme Court held in *Westberry* v. *Sanders*, 376 U.S. 1 (1964), that the matter of congressional districting was a justiciable issue for the Federal courts, and under article I, section 2, of the

Constitution, congressional districts must be composed as nearly as is practicable of equal numbers of people. The *Wesberry* decision has resulted in the redistricting of many States under the direction of the Federal courts.

Despite the many extensive studies and hearings held since 1951, no comprehensive public law to regulate congressional districting has been enacted. In the 90th Congress, after favorable action had occurred in both Houses of Congress and two conference committee reports had been issued (House Report No. 435; House Report No. 795), the only public law enacted on the subject required single-Member districts, exempting the States of Hawaii and New Mexico, for the 1968 congressional elections (Public Law 90–196).

On July 21, 22, and 29, 1971, a judiciary subcommittee conducted public hearings to study a variety of legislative proposals dealing with congressional districting and to examine and appraise the decisional law which had developed in the past 7 years ("Congressional Districting," Hearings before Subcommittee No. 5, House Committee on the Judiciary, 92d Cong., 1st sess., serial No. 9). Thereafter, the subcommittee met in executive session and ordered H.R. 8953 favorably reported with amendments. As amended by the subcommittee, the bill provided that:

1. If a State legislature has not redistricted its congressional seats by February 1 of the first congressional election year after the decennial apportionment (e.g. February 1, 1972), then a Federal court shall not defer issuing its own congressional districting plan "on the ground that additional time is required by the State legislature to establish such districts";

2. Congressional districts shall be composed of contiguous territory in as reasonably a compact form as practicable, containing substantially equal numbers of persons;

3. Needed congressional redistricting shall occur after each decennial census, but States may redistrict more often if new census figures are available which are not more than 2 years old; and

4. Any qualified voter has standing to bring an action to enforce the congressional districting guidelines set forth in the statute. Exclusive jurisdiction over such lawsuits is conferred upon three-judge Federal district courts with provision for expedited direct appeal to the U.S. Supreme Court.

Committee Action

On September 14, 1971, the full Committee on the Judiciary approved H.R. 8953, as amended by a judiciary subcommittee, on a voice vote. It recommended that a clean bill embodying the provisions approved by the committee be introduced. The committee met in executive session on September 16 and 22 to consider the clean bill, H.R. 10645. On September 22 the committee ordered the bill, H.R. 10645, favorably reported, with an amendment, by voice vote.

STATEMENT

In the absence of Federal statutory guidelines, the courts, under the doctrine of *Wesberry* v. *Sanders*, have been called upon to establish redistricting standards on a case-by-case basis.[1]

The most recent rulings of the Supreme Court on this subject extend the process enunciated in the *Wesberry* decision and hold that the State must make a good faith effort to reach mathematical equality in congressional districting. See *Kirkpatrick* v. *Preisler*, 394 U.S. 526 (1969); *Wells* v. *Rockefeller*, 394 U.S. 542 (1969). These High Court rulings seem to reject the notion that there is a permissible range of district population deviation within which State legislatures are free to draw boundary lines. For example, in *Kirkpatrick*, the Court held that: "[u]nless population variances among congressional districts are shown to have resulted despite such [good faith] effort [to achieve mathematical equality], the State must justify each variance, no matter how small." 394 U.S. 526, 531. However, it is the nature of the subject that each redistricting plan must ultimately be judged on its particular facts.

In the absence of a congressional declaration of redistricting standards, State legislatures continue to be subject to uncertainties in attempting to redraw congressional districts to comport with the results of the 19th decennial census. It is the purpose of H.R. 10645 to furnish needed Federal guidelines.

Another factor that threatens to make the redistricting process more difficult involves the reluctance or inability of some State legislatures to redistrict in sufficient time to assure the orderly operation of primary and general elections. In *Reynolds* v. *Sims*, 377 U.S. 533, 586 (1964), the Supreme Court said:

> * * * relief becomes appropriate only when a legislature fails to reapportion according to Federal constitutional requisites in a timely fashion after having had an adequate opportunity to do so.

What is an "adequate" opportunity? How long should a court wait for the legislature before it acts? Unlimited judicial deference to a State legislature may prevent the establishment, in time for a general election, of valid congressional districts.

Therefore, the committee has concluded that it is essential to define some time frame within which the redistricting process shall occur. Any time schedule should be adequate to enable the State legislatures to promulgate their redistricting plans and also facilitate judicial consideration of the issue sufficiently in advance of the general election. A practical time sequence must also take into account the diverse candidate filing dates and primary election dates for Representatives in Congress. A viable time schedule must also consider the schedule of sessions of the various State legislatures. At present, only the date of the general election for Representatives ("The Tuesday next after

[1] Library of Congress research reveals that the Constitution or statutes of 5 States contain standards governing the establishment of congressional districts by the State legislature. For example, the States of California, Indiana, Iowa, Virginia, and West Virginia require compactness and contiguity; the States of Indiana, Virginia, and West Virginia also require substantial population equality among congressional districts.

the first Monday in November in every even-numbered year * * *"), established by Federal law, is certain.[2]

Article 1, section 4 of the Constitution empowers the States to establish districts for the election of Representatives in Congress subject to a reserve power in Congress to make or alter such legislation.[3]

Although Congress has a reserve power to preempt redistricting, it does not, by H.R. 10645, displace the State legislative initiative.

H.R. 10645 does not curtail the traditional primary authority of the States to establish districts for the election of Representatives in Congress—on a fixed date, or otherwise. The bill does establish a time frame for the redistricting process. In effect, the bill admonishes the courts and the State legislatures to act sufficiently in advance of filing dates and before primary elections so that the districting process will be completed in time to assure the orderly operation of election machinery. It declares a congressional preference that redistricting occur by February 1 of the first congressional year following the decennial census. Although the choice of any date is arbitrary, the February 1 date occurs before the filing dates in every State, save one.[4] In order to accommodate H.R. 10645 to the schedule of State legislatures that have adjourned or recessed their 1971 sessions without having redistricted their congressional seats, the committee has amended H.R. 10645 to provide a more flexible time rule in calendar year 1972. In the case of calendar year 1972, the bill, as amended, refers to the 30th day after the convening of a general or special session of the State legislature at which the establishment of districts may be considered.

TABLE A.—*28 States which have not yet redistricted*[1]

Legislatures currently in session: Alabama, California, Illinois,[2] Massachusetts, Michigan, New Hampshire, New Jersey, Ohio, Pennsylvania, Wisconsin	10
Legislatures in recess: Rhode Island (recessed until end of year); South Carolina (recessed subject to call of the chair); Tennessee (recessed until Feb. 7, 1972)	3
Legislatures adjourned:[3] Arizona,[4] Colorado, Connecticut,[5] Florida,[6] Georgia, Hawaii, Kentucky, Louisiana,[7] Mississippi, Missouri, Nebraska, New Mexico, New York, Oklahoma, Washington	15

[1] Source: Derived from information supplied from the Library of Congress, American Law Division.
[2] A U.S. district court has undertaken to establish districts in Illinois.
[3] A number of these States may hold special 1971 sessions to redistrict.
[4] Legislative redistricting is under the jurisdiction of the U.S. district court; the State legislature having been given until November 1, 1971, to redistrict. See *Klahr* v. *Arizona*, 403 U.S. 108 (1971).
[5] Connecticut State Legislature scheduled to convene regular session February 9, 1972.
[6] Florida State Legislature scheduled to convene regular session February 1, 1972; a special session devoted to redistricting and legislative apportionment is scheduled for April-May 1972.
[7] Louisiana State Legislature scheduled to convene regular session on May 8, 1972.

Currently, 28 States entitled to two or more Representatives in the forthcoming 93d Congress have not yet redrawn district lines. Of these

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[2] 2 U.S.C. 7.
[3] Article 1, section 4, clause 1 reads: "The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."
[4] Of 44 States entitled to two or more Representatives in the 93d Congress, only Illinois prescribes a candidate filing date before February 1 of the congressional election year. In Illinois, the filing date occurs in December of the year preceding the general election. Under a pending case, a U.S. District Court has retained jurisdiction to formulate its own redistricting plan. *Skolnick* v. *Illinois State Electoral Board*, 307 F. Supp. 698 (N.D.Ill. 1969).

States, 10 legislatures now are in session; three are in recess and may reconvene later this year; and 15 legislatures have adjourned without enacting a congressional redistricting plan. (See table A.) It should be stressed that all State legislatures schedule sessions in the odd-numbered year and that all but three of the legislatures which have adjourned without redistricting this year schedule sessions to convene prior to February 1, 1972. (In addition, the Tennessee State Legislature which has recessed its 1971 session is scheduled to convene on February 7, 1972.) The committee has attempted to fashion legislation enunciating a congressional policy on redistricting which will discommode the smallest possible number of State legislatures.

H.R. 10645 responds to the prospect of imminent, complex, and time-consuming redistricting litigation in both 1971 and 1972. The committee has concluded that the State legislatures, the courts, candidates for office, and above all, the electorate, are entitled to a declaration of congressional policy on redistricting. The Committee believes H.R. 10645 furnishes reasonable and appropriate standards and procedures to govern redistricting and, accordingly, urges its enactment.

Cost

No additional costs to the United States are anticipated by the enactment of H.R. 10645. (See letter from Department of Commerce to Chairman Emanuel Celler, dated September 14, 1971, attached.)

Analysis

Section 1 of the bill amends section 22 of the Reapportionment Act of June 18, 1929, as amended, 2 U.S.C. 2a, by substituting a recast subsection (c) and adding new subsections (d), (e) and (f).

Subsection (c) prescribes standards to govern the creation of districts for the election of Representatives for the 93d and subsequent Congresses. The standards are:

(1) In each State entitled to more than one Representative, there shall be established by law a number of districts equal to the number of authorized Representatives (i.e., no at-large representation).

(2) Representatives shall be elected only from districts so established; no district to elect more than one Representative.

(3) Each district shall be composed of contiguous territory, including adjoining insular territory, in as reasonably compact a form as practicable, and shall contain substantially equal numbers of persons as determined by the most recent decennial census, except as provided in subsection (d).

By the standards of compactness and contiguity, the committee intends to preclude contorted districts and to prevent gerrymandering.

The term "gerrymandering" has been defined as follows:

(*a*) To divide (a territorial unit) into election districts in an unnatural and unfair way with the purpose of giving one political party an electoral majority in a large number of districts while concentrating the voting strength of the opposition in as few districts as possible.

(*b*) To divide (an area) into political units in an unnatural and unfair way with the purpose of giving special advantages to one group. (Webster's Third New International Dictionary (1961), p. 952.)

(*c*) An attempt "to minimize or cancel out the voting strength of racial or political elements of the voting population." *Burns* v. *Richardson*, 384 U.S. 73, 89 (1965); see also *Fortson* v. *Dorsey*, 379 U.S. 443, 439 (1965).

The committee bill adopts the standard of substantial population equality ("* * * the districts within each State shall contain substantially equal number of persons * * *") in light of recent Supreme Court decisions which appear to rule out specifying any maximum population deviation figure. *Kirkpatrick* v. *Preisler*, 394 U.S. 526 (1969); *Wells* v. *Rockefeller*, 394 U.S. 542 (1969). The committee believes a rule of substantial equality will meet the Court's test.

Subsection (*d*) requires that districts, in compliance with the act, shall be established for the regular election of Representatives next following the year in which the decennial census is taken. It permits States to redistrict more often than once each decade if such redistricting is based on a statewide Federal special census conducted pursuant to the provisions of the act of August 26, 1954 (71 Stat. 481; 13 U.S.C. 8), and is not taken more than 2 years prior to the election to which such districting will first apply.

Subsection (*e*) authorizes any person who is qualified to vote in an election of a Member of the House of Representatives from the State to bring an action to enforce the provisions of this act in the U.S. District Court for the district for which he is a resident, without regard to any amount in controversy. The subsection authorizes the U.S. District Court before which an action to enforce this act is instituted to issue all orders and decrees necessary to bring a State into compliance, including authority to issue an order establishing single-Member districts.

Subsection f(*1*) confers on U.S. District Courts exclusive jurisdiction over actions brought to enforce this act and provides that they shall be heard by a three-judge district court. The subsection does not disturb present State court jurisdiction to enforce other provisions of law relating to congressional districting.

Subsection f(*2*) provides for the right of direct appeal to the U.S. Supreme Court and requires it to be filed within 30 days of the entry of a final order, judgment or decree of a three-judge court convened under this act. The subsection specifies that such appeals should have priority over all other cases on the Court's docket.

Subsection f(*3*) provides that if a State legislature has not redistricted in accordance with the Constitution and the laws of the United States (A) on or before February 1 of the first congressional election year after a decennial apportionment (other than calendar year 1972), or (B) in the case of calendar year 1972, on or before the 30th day after the convening of a general or special session of a State legislature at which the establishment of districts may be considered, then the U.S. District Court in which a suit to enforce the provisions of the act is pending shall not defer issuing its own districting plan on the ground that additional time is required by the State legislature to establish such districts.

As amended, the subsection accommodates State legislatures that have adjourned or recessed their 1971 sessions without redrawing congressional district boundaries. The subsection contains a more flexible time rule for calendar year 1972 based upon the convening date of the

State legislature. When a State legislature has scheduled a special session to consider redistricting, it is intended that the time rule refer to the convening of that special session. In the absence of such a special session, the rule refers to the convening of the general session. The language of the subsection, it should be stressed, does not mandate judicial relief on a fixed date; nor does it curtail the traditional authority of State legislatures to redraw district boundaries on a fixed date, or otherwise.

Section 2 of the bill repeals the second paragraph of the act of December 14, 1967 (Public Law 90–196) which prescribes single-Member districts in States entitled to more than one Representative. The language is superfluous in view of subsection (c) as recast by section 1 of the bill. However, repeal is made effective January 3, 1973, to preclude the election of any Representative-at-large at a special election held during the term of the 92d Congress.

Communications

Attached hereto and made a part of this report is a letter dated September 14, 1971, from William N. Letson, general counsel, Department of Commerce, addressed to Chairman Emanuel Celler, commenting on a predecessor bill, H.R. 8953.

Also attached and made a part of this report is a letter dated August 6, 1971, from Chairman Emanuel Celler, addressed to Mr. George H. Brown, Director, Bureau of the Census, requesting comments on the predecessor bill, H.R. 8953, as amended.

General Counsel of the Department of Commerce,
Washington, D.C., September 14, 1971.

Hon. Emanuel Celler,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

Dear Mr. Chairman: This is in further reply to your letter to the Director, Bureau of the Census, requesting views on H.R. 8953, a bill to require the establishment, on the basis of the 18th and subsequent decennial censuses, of congressional districts composed of contiguous and compact territory for the election of Representatives, and for other purposes.

This Department's Bureau of the Census would have no difficulty in providing the information for the drawing of districts as would be required under H.R. 8953. Title 13, United States Code, under which the decennial census is taken, provides that the final population totals for the computation of the apportionment be submitted to the President by December 1 of the year in which the census is taken. The experience with the results of the 1970 census has been that information needed for the drawing up of new districts will have become available to all States within the time limits specified in H.R. 8953.

The funds appropriated for the decennial census provide for the tabulation and publication counts for all political subdivisions, as well as for small statistical areas such as census tracts or blocks. It is assumed that in the future, as at present, States which required special tabulations or which to secure available information before the printed

reports are available, will reimburse the Bureau of the Census for any additional costs which may be incurred for this special service.

The Bureau of the Census is authorized to conduct special censuses for States and other governmental entities, at cost to the sponsoring authority. If a State wished to contract for a special census in order to provide data for redistricting, such a census could be taken at the time specified by the State. The cost would be borne entirely by the State. Under these circumstances it would be possible to provide data needed to comply with H.R. 8953 without any additional cost to the Federal Government.

The Department makes no comment on the merits of the bill.

Time has not permitted us to obtain the advice of the Office of Management and Budget as to the relationship of H.R. 8953 to the administration's program.

Sincerely,

WILLIAM N. LETSON,
General Counsel.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 6, 1971.

MR. GEORGE H. BROWN,
Director, Bureau of the Census,
Department of Commerce, Washington, D.C.

DEAR MR. BROWN: On August 2 Subcommittee No. 5 of this committee ordered favorably reported to the full Committee on the Judiciary, with amendments, H.R. 8953, a bill to regulate congressional districting.

It would be helpful to the members of the committee to have your comments on the proposed legislation insofar as it may affect or involve the Bureau of the Census. Copies of H.R. 8953, as amended by the subcommittee, are enclosed.

In particular, I direct your attention to subsections (d) and (f)(3). The former provides for redistricting after each decennial census, but permits States to redistrict more often if census figures not more than 2 years old are available. The latter subsection provides that if a State legislature has not redistricted by February 1 of the first congressional election year after a decennial apportionment (e.g. February 1, 1972), then a Federal court in which a suit to enforce the provisions of the statute is pending, shall not defer issuing its own districting plan on the ground that addtional time is required by the State legislature to establish such districts.

It would also be helpful to learn what, if any, additional costs to the Bureau of the Census would be entailed by the enactment of this legislation.

Sincerely yours,

EMANUEL CELLER,
Chairman.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the House of Representatives, there is printed below in roman existing law in which no

change is proposed by the bill as reported. Matter proposed to be stricken by the bill as reported is enclosed in black brackets. New language proposed by the bill as reported is printed in italic.

SECTION 22 OF THE ACT OF JUNE 18, 1929, CHAPTER 28 (46 STAT. 26; 2 U.S.C. 2A), AS AMENDED

§ 2a. Reapportionment of Representatives; time and manner; existing decennial census figures as basis; statement by President; duty of clerk

(a) * * *
(b) * * *
[(c) Until a State is redistricted in the manner provided by the law thereof after any apportionment, the Representatives to which such State is entitled under such apportionment shall be elected in the following manner: (1) If there is no change in the number of Representatives, they shall be elected from the districts then prescribed by the law of such State, and if any of them are elected from the State at large they shall continue to be so elected; (2) if there is an increase in the number of Representatives, such additional Representative or Representatives shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; (3) if there is a decrease in the number of Representatives but the number of districts in such State is equal to such deceased number of Representatives, they shall be elected from the districts then prescribed by the law of such State; (4) if there is a decrease in the number of Representatives but the number of districts in such State is less than such number of Representatves, the number of Representatives by which such number of districts is exceeded shall be elected from the State at large and the other Representatives from the districts then prescribed by the law of such State; or (5) if there is a decrease in the number of Representatives and the number of districts in such State exceeds such decreased number of Representatives, they shall be elected from the State at large.]

(c) In each State entitled in the Ninety-third Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to the provisions of subsection (b) of this section, there shall be established by law a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only from districts so established, no district to elect more than one Representative. Each district shall at all times be composed of contiguous territory, including adjoining insular territory, in as reasonably compact a form as practicable, and the districts within each State shall contain substantially equal numbers of persons, as determined under the then most recent decennial census, except as provided in subsection (d) of this section.

(d) Districts in compliance with subsection (c) of this section shall be established for the regular election of Members of the House of Representatives next following the year in which each decennial census of the United States is taken. Nothing in this section shall prohibit a State from establishing new districts more often than once in each ten-year period. Any establishment of such new districts within any

State which is to take effect for any regular election, other than the regular election next following the year in which a decennial census of the United States is taken, shall be based upon population figures compiled by a census of that State taken pursuant to the Act of August 26, 1954, as amended (71 Stat. 481; U.S.C. 8), not more than two years prior to the election to which such districting will first apply.

(e) Any person in any State meeting the qualifications for voting in an election of a Member of the House of Representatives from that State may bring an action in the district court of the United States for the district of which he is a resident, without regard to any amount in controversy, to enforce the provisions of this section with regard to the State in which he resides, and the court in which such action is brought shall have authority to issue all orders and decrees necessary to bring such State into compliance with this section, including authority to issue an order establishing single member districts according to law.

(f)(1) The district courts of the United States shall have exclusive jurisdiction to hear and determine any action brought under this section which shall be heard by a district court of three judges in accordance with section 2284 of title 88, United States Code. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(2) An appeal from the final decision of the three-judge court convened under this section shall be taken directly to the United States Supreme Court and must be filed within thirty days of the entry of the final order, judgment, or decree. Appeals brought to the Supreme Court under this section shall have priority over all other cases on the docket of that court.

(3) In any action or proceeding brought under this section, if a State has not established districts in accordance with the Constitution and laws of the United States

(A) on or before February 1 of the year (other than calendar year 1972) of the regular election of Members of the House of Representatives next following the year in which the decennial census is taken, or

(B) in the case of calendar year 1972, on or before the 30th day after the convening of a general or special session of a State legislature at which the establishment of districts may be considered,

the court shall not defer the entry of an order establishing single member districts on the ground that additional time is required by the State legislature to establish such districts.

ACT OF DECEMBER 14, 1967

(81 Stat. 581, 2 U.S.C. 2c)

[§ 2c. Number of Congressional Districts; number of Representatives from each District.]

[In each State entitled in the Ninety-first Congress or in any subsequent Congress thereafter to more than one Representative under an

apportionment made pursuant to the provisions of section 2a(b) of this title, there shall be established by law a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only from districts so established, no district to elect more than one Representative (except that a State which is entitled to more than one Representative and which has in all previous elections elected its Representatives at Large may elect its Representatives at Large to the Ninety-first Congress).] *

*The repeal of this section is made effective Jan .3, 1973.